

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

MOTOROLA, INC., MOTOROLA
MOBILITY, INC., and GENERAL
INSTRUMENT CORPORATION,

Defendants.

NO. 2-10-cv-01823-JLR

**NON-PARTY SAMSUNG'S
RENEWED MOTION TO SEAL
PATENT LICENSE AGREEMENTS
AND OTHER LICENSING
INFORMATION AND EXCLUDING
UNAUTHORIZED PERSONS FROM
THE COURTROOM DURING
RELATED TESTIMONY**

NOTE ON MOTION CALENDAR:
Friday, September 6, 2013

Without Oral Argument

Pursuant to Local Rule CR 5(g), non-party Samsung Electronics Co., Ltd.
("Samsung") respectfully requests that this Court grant this Renewed Motion to Seal in order
to protect its trade secrets and highly competitive information from public disclosure. The
three documents at issue are:

- Trial Exhibit 2813, entitled "Confidential Patent License Agreement between Microsoft Corp. and Samsung Elecs. Co., Ltd. (Gutierrez Ex. 1)," and labeled as MS-MOTO_1823_00002244552;
- Trial Exhibit 3163, entitled "Presentation: MMI - Samsung Meeting (March 23, 2011)," and labeled as MOTM_WASH1823_0054337; and
- Trial Exhibit 3238, entitled "Cellular Cross License Agreement between Motorola, Inc. and Samsung Electronics Co., Ltd.," and labeled as MOTM_WASH1823_0025769.

1 Samsung did not learn that the parties would potentially introduce these exhibits in
2 evidence and/or solicit testimony regarding the same until the morning of August 26, 2013 –
3 the first day of trial – when the parties’ Joint Trial Exhibit List (D.I. 871) became available on
4 PACER.

5 In response to Microsoft’s motion to seal certain exhibits, the Court had sealed exhibit
6 2813, but noted that the sealing was provisional because it strongly believed that “its final
7 order, and rationale contained therein, must be publicly available, any license agreement
8 relied upon by the court in determining a RAND royalty rate and range will also be made
9 public.”¹ (Order, D.I. 567 at 8). Ruling on Non-Party Samsung’s Motion for Clarification
10 (D.I. 572), the Court later provisionally sealed, *inter alia*, exhibits 3163 and 3238. (Order, D.I.
11 588). Subsequently, the Court sealed the courtroom during testimony relating to the parties’
12 and certain non-parties’ confidential licensing information and issued a redacted Findings of
13 Facts and Conclusions of Law concealing non-party RIM’s confidential licensing information.
14 (See Order, D.I. 681 at 135-140).

15 The legal and factual bases for this Renewed Motion are identical to those that were
16 fully briefed in its prior motions to seal its licensing information addressing the very same
17 exhibits at issue here (D.I. 555, 572, 580). Samsung hereby incorporates by reference its prior
18 motions as well as their supporting declaration and accompanying exhibits (D.I. 557). The
19 Court – having previously granted Samsung’s motion to seal and similar motions by the
20 parties and other other non-parties – is well aware of the legal grounds for this Renewed
21 Motion and Samsung refrains from rearguing the same, but merely notes that a recent decision
22 by the United States Court of Appeals for the Federal Circuit now confirms this Court’s
23 ultimate decision and underlying reasoning to seal licensing agreements and other licensing
24 negotiations documents that contain trade secret, highly competitive information. *See Apple*,
25
26

¹ Unlike the November bench trial, the jury at this trial will simply render a verdict, not an opinion explaining their decision.

1 *Inc. v. Samsung Elecs. Co.*, --- F.3d ---, Nos. 2012-1600, - 1606, 2013-1146, 2013 WL
 2 4487610, at *6-10 (Fed. Cir. Aug. 23, 2013).

3 Trial Exhibits 2813, 3163 and 3238 contain Samsung's trade secrets and highly
 4 competitive licensing information. Accordingly, Samsung respectfully renews its motion to
 5 have these exhibits and related testimony sealed and to exclude non-authorized persons from
 6 the courtroom during such testimony. Samsung also requests that the Court instruct the
 7 parties to bring to its attention any other exhibits or demonstratives containing Samsung's
 8 confidential licensing information or summaries of the same and to seal such exhibits and
 9 demonstratives as well as the courtroom during related testimony.

10 DATED: August 27, 2013

11 ZEINEDDIN PLLC

12 /s/ R. Paul Zeineddin

13 R. Paul Zeineddin, DC Bar No. 474734

14 Admitted Pro Hac Vice

15 paul@zeineddin.com

16 1000 Connecticut Avenue NW, Suite 900

Washington, DC 20036

Tel: (202) 787-1051

17 GORDON THOMAS HONEYWELL LLP

18 s/ Donald S. Cohen

19 Donald S. Cohen, WSBA No. 12480

20 dcohen@gth-law.com

21 600 University Street, Suite 2100 Seattle, WA

98101

22 Tel: (206) 676-7500

Fax: (206) 676-7575

23 Attorneys for Non-Party SAMSUNG
 24 ELECTRONICS CO., LTD.

ATTORNEY CERTIFICATION

Pursuant to Local Rule CR 5(g)(3)(a), the undersigned certify that counsel for non-party Samsung Electronics Co, Ltd. has met and conferred with counsel for the parties in an attempt to reach agreement on the need to file the document under seal, to minimize the amount of material filed under seal, and to explore redaction and other alternatives to filing under seal. Specifically, counsel met and conferred with respect to the documents referenced in this Renewed Motion to Seal on the following dates and manners:

On August 26 and 27, Paul Zeineddin, outside counsel for Samsung, conferred in person with Ms. Andrea Roberts, outside counsel for Motorola, and Mr. Shane Cramer, outside counsel for Microsoft, concerning the potential use of Samsung's confidential materials at trial, including trial exhibits 2813, 3163, and 3238 as well as other exhibits, demonstratives and testimony relating to Samsung's confidential licensing information, and concerning Samsung's interest in keeping the contents of the same confidential during the trial.

/s/ R. Paul Zeineddin
R. Paul Zeineddin

/s/ Donald S. Cohen
Donald S. Cohen

CERTIFICATE OF SERVICE

I certify that on this 27th day of August, 2013, the foregoing document was electronically filed **Non-party Samsung's Renewed Motion to Seal Patent License Agreements and Other Licensing Information and Excluding Unauthorized Persons from the Courtroom During Related Testimony** with the Clerk of the U.S. District Court for the Western District of Washington using the CM/ECF system, which will send notification of such filing to all parties of record.

DATED this 27th day of August, 2013.

By s/ Lynne M. Overlie
s/ Lynne M. Overlie, Legal Assistant
GORDON THOMAS HONEYWELL LLP